IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 260 of 2004 (M/B)

M.L. Kapoor aged about 53 years,
S/o Late Sri K.K. Kapoor,
R/o 20/1 Shastri Nagar, Dehradun
District Dehradun ... **Petitioner**

Versus

1. State of Uttaranchal through its Chief Secretary, Civil Secretariat, Dehradun

2. Secretary, Secretariat Administration Department, Civil Secretariat, Dehradun
3. P.C. Sharma I.A.S., Secretariat, Secretariat Administration Department, Civil Secretariat, Dehradun
4. State of U.P. through its Secretary, Secretariat Administration Department, Civil Secretariat, Lucknow

... **Respondents**

Sri A.L. Joshi, Advocate for het petitioner
Learned standing counsel for the respondents

Dated: April 24, 2006

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

By means of this writ petition, the petitioner has prayed for writ of certiorari quashing the impugned order dated 04.12.2003 passed by Respondent Nos.2 and 3, which is contained in Annexure No.1 to this writ petition.

2. This Court in Writ Petition (S/B) 493 of 2003 vide order dated 17.10.2003 directed the respondent to decide the representation of the petitioner dated 11.03.2003. The representation of the petitioner has now been rejected by the Respondent Nos.2 and 3 vide order dated 04.12.2003 on the ground that the Selection

Committee was not agreeable to the relaxation granted in the minimum length of service. The averment has been made in the writ petition that the Governor has granted the relaxation to other persons like the petitioner and they have been promoted but in the case of the petitioner, the relaxation granted by the Governor has not been adhered to and he is deprived of the promotion and the representation of the petitioner has accordingly been rejected.

3. It is not disputed that the relaxation to other persons have been granted in minimum length of service as required under the Uttar Pradesh Secretariat Private Secretaries Service Rules, 1995 as adopted by the State of Uttaranchal. It is also admitted that the persons who were given the relaxation were junior to the petitioner and were also given the promotion, while in the case of the petitioner, despite the relaxation given by the Governor to the petitioner, the Selection Committee did not recommend the name of the petitioner on the ground that the Selection Committee was not agreeable with the relaxation, which is discriminatory in nature and violative of Article 14 of the Constitution of India.

4. Therefore, the rejection order of the petitioner dated 04.12.2003 is liable to be set aside and is accordingly set aside. The respondents are directed to consider the case of the petitioner for promotion accepting the relaxation given to him within a period of one month from the date of production of certified copy of this order.

5. With the aforesaid observation, the petition is disposed of finally.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

Rajeev Dang